

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ORDER AFFIRMING REPORT AND RECOMMENDATION

This civil rights action brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Bana Roberts, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Roberts entered four Reports and Recommendations, recommending dismissal of all claims and defendants under various theories. Plaintiff submitted a letter, apparently intended for Judge Roberts, and additionally he filed an objection to the Report and Recommendation. The Court therefore considers the matter de novo.

In neither the letter nor his objection does Plaintiff dispute any of the factual or legal conclusions asserted in the Reports and Recommendations. He merely asks for appointment of counsel to present his claims. “There is no constitutional right to appointed counsel in a civil case.” Durre v. Dempsey, 869 F.2d 543, 547 (10th Cir. 1989). In determining whether counsel should be appointed, the Court considers “the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present his claims, and

the complexity of the legal issues raised by the claims.” Williams v. Meese, 926 F.2d 994, 996 (10th Cir. 1991). For the reasons stated in the Reports and Recommendations, and further because Plaintiff asserts in his letter that his cause of action is for negligence rather than constitutional violations, the Court finds the merits of Plaintiff’s claims do not justify appointment of counsel.

Accordingly, the Reports and Recommendations are adopted, and for the reasons stated therein, this action is dismissed with prejudice as to Defendant Slabotsky; dismissed without prejudice as against Defendant Banther; dismissed, with prejudice, as against Kingfisher County Jail and Kingfisher County Court; and dismissed, without prejudice, as against Dickson. This resolves all claims in Defendants’ favor. The Clerk is directed to change Plaintiff’s address, consistent with the statement on page 2 of his letter.

IT IS SO ORDERED this 5th day of October, 2012.



ROBIN J. CAUTHRON
United States District Judge